

George Haines, Esq.
Nevada Bar No. 9411
David Krieger, Esq.
Nevada Bar No. 9086
HAINES & KRIEGER, LLC
1020 Garces Ave.
Las Vegas, NV 89101
Phone: (702) 880-5554
FAX: (702) 385-5518
Email: info@hainesandkrieger.com
Attorney for Richard Gagnon and Cynthia De La Torre

E-FILED: September 16, 2009

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In Re:)	Case No. BKS-09-21299-BAM
)	Chapter 13
)	
)	
Richard Gagnon and Cynthia De La)	Hearing Date: September 29, 2009
Torre,)	Hearing Time: 1:30 PM
)	
)	
Debtors(s).)	
_____)	

**DEBTORS' OPPOSITION TO MOTION FOR
RELIEF FROM AUTOMATIC STAY AND/OR REQUEST FOR RENOTICING
UNDER NRS 107.080 (AS REQUIRED UNDER NEVADA ASSEMBLY BILL 149
EFFECTIVE JULY 1, 2009)**

COME NOW, Richard Gagnon and Cynthia De La Torre, by and through attorney, George Haines, Esq., of the LAW OFFICES OF HAINES & KRIEGER, LLC, and in response to **THE BANK OF NEW YORK, FKA THE BANK OF NEW YORK AS SUCCESSOR IN INTEREST TO JP MORGAN CHASE BANK NA AS TRUSTEE FOR STURCTURED ASSET MORTGAGE INVESTMENTS II INC. BEAR STERNS ALT-A TRUST 2005-7 MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2005-7's** ("Creditor") Motion For Relief From Automatic Stay states as follows:

1. On June 28, 2009, Debtors filed the current Chapter 13 Petition in Bankruptcy with the Court.

2. On or about September 02, 2009, Creditor filed a Motion for Relief from the Automatic Stay.

3. Debtors' Plan disclosed that the Debtors is presently negotiating a loan modification with this Creditor (see *Debtors' Chapter 13 Plan*, attached hereto as Exhibit "1").

4. Debtors' Chapter 13 Plan sets aside "adequate protection" payments pursuant to 11 U.S.C. Section 361 and 11 U.S.C. Section 362 to protect this creditor's interests while the Debtors negotiate a loan modification with this Creditor-Lender.

5. Further, the underlying property is integral to the Debtors' Chapter 13 Plan and is necessary to effect a reorganization.

6. Accordingly, no cause exists under 11 U.S.C. Section 362(d) to lift the automatic stay.

7. Alternatively, the Court should either dismiss Creditor's motion or continue the instant motion for a sufficient time to allow Debtors and Creditor to complete the loan modification process.

8. In the event this Court is inclined to grant secured creditor's request for relief from the automatic stay, the Debtors request that Your Honor require Secured Creditor to renotice any pending foreclosure action under NRS 107.080 (as revised by Nevada Assembly Bill 149, effective July 1, 2009) by this Creditor to the extent applicable.

9. Pursuant to NRS 107.082 if a foreclosure "sale has been postponed by oral proclamation three times, any new sale information must be provided by notice as provided in NRS 107.080." NRS 107.080 (as revised by Nevada Assembly Bill 149

effective July 1, 2009) requires Secured Creditor to provide Debtors a notice of election to enter into court mandated mediation.

WHEREFORE, Debtors request:

1. THE BANK OF NEW YORK, FKA THE BANK OF NEW YORK AS
SUCCESSOR IN INTEREST TO JP MORGAN CHASE BANK NA AS
TRUSTEE FOR STURCTURED ASSET MORTGAGE INVESTMENTS II
INC. BEAR STERNS ALT-A TRUST 2005-7 MORTGAGE PASS-
THROUGH CERTIFICATES, SERIES 2005-7's Motion be denied or, in the
alternative, that Creditor's motion be continued for a sufficient amount of time
to permit Debtors and Creditor to enter into a loan modification agreement;
and/or
2. In the event Your Honor grants relief from stay, that Secured Creditor be
required to renote its foreclosure proceeding pursuant to Revised NRS
107.080 (as effective through Nevada AB 149, July 1, 2009), thus providing
the Debtors an opportunity to elect court mandated mediation in State Court.
3. Such other relief as the Court finds appropriate.

Dated: September 16, 2009

/s/ David Krieger, Esq.
Attorney for Debtors(s)

CERTIFICATE OF MAILING RE:
DEBTORS' OPPOSITION TO MOTION FOR
RELIEF FROM AUTOMATIC STAY

I hereby certify that on September 16, 2009, I mailed a true and correct copy, first class mail, postage prepaid, of the above listed document to the following:

/s/George Haines, Esq.
Attorney for Debtors

Gregory Wilde
208 S. Jones Blvd
Las Vegas, NV 89107